

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

AMENDED FINAL AGENCY ORDER O-09-006

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF HMO
COLORADO, INC.,**

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of HMO Colorado, Inc. (the "Respondent"), pursuant to §§ 10-1-201 to 207, and 10-16-416, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated March 5, 2008 (the "Report"), relevant examiners' work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. On or about July 2, 2008, the Commissioner entered Final Agency Order O-08-129 pursuant to the Report.
2. The Commissioner hereby rescinds the Final Agency Order O-08-129 and amends the Final Agency Order as set forth with this below.
3. At all relevant times, the Respondent was licensed by the Division as a health maintenance organization.
4. In accordance with §§ 10-1-201 to 207, and 10-16-416, C.R.S., on March 5, 2008, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2006 to December 31, 2006.
5. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.

6. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners' handbook. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.
7. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
8. Respondent delivered to the Division written submissions and rebuttals to the Report.
9. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiners' work papers.

CONCLUSIONS OF LAW AND ORDER

10. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
11. Issue A1 concerns the following violation: Failure, in some cases, to include all required contract provisions in provider contracts. The Respondent shall provide evidence that it has revised its provider contracts to comply with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
12. Issue A2 concerns the following violation: Failure to maintain records required for market conduct purposes. The Respondent shall provide evidence that it has revised its record maintenance procedures to ensure that all records required for market conduct purposes are maintained and provided in the time periods required to comply with Colorado insurance law.
13. Issue E1 concerns the following violation: Failure of the Company's forms, in some instances, to provide coverage for newborns to the extent required by Colorado insurance law. The Respondent shall provide evidence that it has revised all applicable forms to ensure that newborn care is covered as

required by Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.

14. Issue E2 concerns the following violation: Failure of the Company's forms to correctly disclose the policies and procedures for obtaining emergency medical services. The Respondent shall provide evidence that it has revised its forms to correctly disclose and define its policies and procedures for obtaining emergency medical services as required by Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
15. Issue E3 concerns the following violation: Failure of Company's forms, in some instances, to provide accurate information regarding coordination of benefits with Medicare. The Respondent shall provide evidence that it has revised its forms to provide accurate information regarding coordination of benefits with Medicare to comply with Colorado insurance law.
16. Issue E4 concerns the following violation: Failure of Company's forms, in some instances, to provide for continuation of coverage when a member becomes entitled to Medicare benefits. The Respondent shall provide evidence that it has revised its forms to provide for continuation of coverage when a Member becomes entitled to Medicare to comply with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
17. Issue E5 concerns the following violation: Failure to correctly title the Basic and Standard health benefits plan certificates. The Respondent shall provide evidence that it has revised its forms to reflect correct titles for the Basic and Standard health benefit plan certificates to comply with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
18. Issue E6 concerns the following violation: Failure, in some cases, to include only required benefits in the Basic and Standard health benefit plan forms. The Respondent shall provide evidence that it has revised its forms to include only required benefits in the Basic and Standard health benefit plan forms to comply with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
19. Issue E7 concerns the following violation: Failure, in some cases, to include a correct description of the preventive services required in the Basic and Standard health benefit plans. The Respondent shall provide evidence that it has revised its forms to include a correct description of the preventive services required in the Basic and Standard health benefit plans to comply

with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.

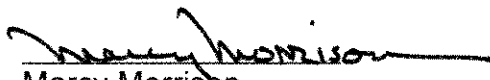
20. Issue G1 concerns the following violation: Failure, in some instances, to obtain and retain in the file a list of eligible employees and/or eligible dependents. The Respondent shall provide evidence that it has revised its procedures to include obtaining and retaining a list of eligible employees and dependents with each new application to ensure compliance with Colorado insurance law.
21. Issue H1 concerns the following violation: Failure to include the full definition of "significant break in coverage" in certificates of creditable coverage. The Respondent shall provide evidence that it has revised its certificate of creditable coverage to comply with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
22. Issue H2 concerns the following violation: Failure, in some instances, to implement procedures for terminating policies, including coding and timing of cancellation processing, and providing offers of Basic and Standard coverage that are in compliance with Colorado insurance law. The Respondent shall provide evidence that it has revised its termination procedures to comply with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
23. Issue H3 concerns the following violation: Failure to include the required elements and information in certificates of creditable coverage. The Respondent shall provide evidence that it has revised its certificates of creditable coverage and any procedures necessary to ensure correct information is included to comply with Colorado insurance law.
24. Issue J1 concerns the following violation: Failure, in some instances, to pay, deny, or settle claims within the time frames required by Colorado insurance law. The Respondent shall provide evidence that it has revised its procedures to ensure that all claims are paid, denied, or settled within the time frames required by Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
25. Issue J2 concerns the following violation: Failure, in some instances, to pay penalties on claims not paid within the time frames required by Colorado insurance law. The Respondent shall provide evidence that it has revised its procedures to ensure that the required penalty is paid for any claim not paid, denied, or settled within the time frames required by Colorado

insurance law. Respondent shall perform a self-audit of all claims received from January 1, 2006 to the date of this Order that were not paid or settled within ninety (90) days, and pay any penalties due that were not previously paid to the person owed.

26. Issue K1 concerns the following violation: Failure, in some instances, to provide written notification of first level review adverse determinations within the time frame required by Colorado insurance law. The Respondent shall provide evidence that it has revised its procedures to ensure that it provides written notification letters regarding first level review adverse determinations within the time frames required by Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
27. Issue K2 concerns the following violation: Failure to provide the location of the review panel meeting and thereby discouraging the covered person from requesting a face-to-face meeting. The Respondent shall provide evidence that it has revised its policies and procedures to ensure that disclosure of the location of the review panel meeting is provided, and that it does not in any way discourage covered persons and/or their representatives from requesting face-to-face meetings as required by Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
28. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of two hundred fifty-two thousand five hundred and no/100 dollars (\$252,500.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division Bulletin No. B-1.3, originally issued on January 1, 1998, re-issued May 8, 2007.
29. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related Order.

30. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self audits, if any, shall be performed in accordance with Division's document, 'Guidelines for Self Audits Performed by Companies', presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
31. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
32. Copies of the examination report, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the Report dated March 5, 2008, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 18th day of July, 2008.



Marcy Morrison
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of July, 2008, I caused to be deposited the **AMENDED FINAL AGENCY ORDER NO. O-09-006 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF HMO COLORADO, INC.**, in the United States Mail via certified mailing with postage affixed and addressed to:

Mr. John Martie, President
HMO Colorado, Inc.
700 Broadway
Denver, CO 80273

Mr. Matt Morgan, Anthem Internal Audit
HMO Colorado, Inc.
700 Broadway
Denver, CO 80273


Eleanor Patterson
Market Regulation Section
Division of Insurance